



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: July 11, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006620

[REDACTED]

Dear [REDACTED]

On June 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 21, 2015 eligibility determination notice, December 22, 2015 notice of enrollment, and January 30, 2016 eligibility determination and disenrollment notices.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

Legal Authority

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly reenroll you and your spouse in Healthfirst, as your qualified health plan, at full cost, for the months of January and February 2016?

Did NYSOH properly determine that the enrollment of you and your spouse in an Essential Plan was effective March 1, 2016?

Procedural History

On March 14, 2015, NYOSH issued an enrollment notice, stating that you and your spouse had enrolled in Healthfirst as your qualified health plan (QHP), with such coverage to begin on April 1, 2015.

On October 25, 2015, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether you and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2015 or you and your spouse might lose the financial assistance currently being received.

No updates were made to your account by December 15, 2015.

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On December 21, 2015, NYOSH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in a qualified health plan at full cost because you had not responded to the renewal notice and had not completed your renewal within the required timeframe. This eligibility was effective January 1, 2016.

On December 22, 2015, NYSOH issued a notice confirming your enrollment in Healthfirst as of December 21, 2015, at a premium of \$880.07 per month. The notice further stated that you must pay the monthly premium to start and keep your coverage, and that the plan enrollment start date was January 1, 2016.

On January 29, 2016, NYSOH received a revised application. In response to this application, NYSOH prepared a preliminary eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan, effective March 1, 2016.

Also on January 29, 2016, you spoke to the NYSOH's Account Review Unit and appealed the enrollment of you and your spouse in Healthfirst as your QHP during 2016 since you were seeking to retroactively disenroll you and your spouse from such coverage, effective January 1, 2016 and to backdate your Essential Plan coverage to January 1, 2016.

On January 30, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the January 29, 2016 application. The notice stated that you and your spouse were eligible to enroll in the Essential Plan, effective March 1, 2016.

Also on January 30, 2016, NYSOH issued a notice of enrollment confirming that you and your spouse had enrolled in Healthfirst as you and your spouse's Essential Plan beginning March 1, 2016.

Finally, on January 30, 2016, a disenrollment notice was issued that your QHP coverage with Healthfirst would end, effective February 29, 2016, because you were no longer eligible to remain enrolled in that coverage.

On June 20, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.

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- 2) You testified that you did not receive any electronic alerts regarding any renewal notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility.
- 3) You testified that you did not know that you needed to update your account until you had received an invoice from Healthfirst for over \$1,700.00 in premium costs for coverage during the months of January and February 2016.
- 4) The record reflects that on January 29, 2016 NYSOH received your updated application for health insurance.
- 5) You testified that you are seeking to retroactively disenroll you and your spouse from the QHP coverage, effective January 1, 2016 since you cannot afford the premium amount due to Healthfirst without any tax credits being applied. You further testified that you were seeking to backdate the Essential Plan coverage for you and your spouse to January 1, 2016.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the qualified individual's projected eligibility for the upcoming coverage year and the information NYSOH will use to redetermine that projected eligibility (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue under review is whether NYSOH properly reenrolled you and your spouse in Healthfirst, as your qualified health plan, at full cost for the months of January and February 2016.

NYSOH must annually redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 25, 2015, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you and your spouse qualified for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2015 or the financial help you and your spouse were receiving might end.

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Because there was no timely response to this notice, your eligibility for financial assistance was terminated effective December 31, 2015. However, you and your spouse were reenrolled in Healthfirst, as your QHP, at full cost, since the record reflects that as of October 15, 2015, you had requested an automatic renewal of coverage for a period of 5 years.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding any renewal notice, or directions to update the information in your NYSOH account. There is no evidence in your account documenting that any email alert was sent to you regarding the renewal notice or the need to renew your application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account.

You first renewed your eligibility for financial assistance through NYSOH for 2016 on January 29, 2016, and therefore we must presume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

As a result of the update in your account on January 29, 2016, you and your spouse were found eligible to enroll in the Essential Plan at a premium rate of \$20.00 per person, effective March 1, 2016. Had this application been timely sent in, in response to the renewal notice, this coverage would have been effective January 1, 2016.

Therefore, the December 21, 2015 eligibility determination notice finding you and your spouse eligible to enroll in a QHP at full cost is **RESCINDED**.

The December 22, 2015 notice of enrollment confirming the enrollment of you and your spouse in Healthfirst as your QHP is also **RESCINDED**.

The January 30, 2016 eligibility determination notice is **MODIFIED** to state that both you and your spouse were eligible to enroll in the Essential Plan as of January 1, 2016.

The January 30, 2016 notice of enrollment is **MODIFIED** to state that you and your spouse were enrolled in Healthfirst as your Essential Plan, effective January 1, 2016. Such a backdating of coverage shall only to be effective upon receipt of the necessary premiums due to Healthfirst as the insurance carrier.

Decision

The December 21, 2015 eligibility determination notice is RESCINDED.

The December 22, 2015 notice of enrollment is RESCINDED.

The January 30, 2016 eligibility determination notice is MODIFIED to state that both you and your spouse were eligible to enroll in the Essential Plan as of January 1, 2016.

The January 30, 2016 notice of enrollment is MODIFIED to state that you and your spouse were enrolled in Healthfirst as your Essential Plan, effective January 1, 2016. Such a backdating of coverage shall only be effective upon receipt of the necessary premiums due to Healthfirst as the insurance carrier.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

Effective Date of this Decision: July 11, 2016

How this Decision Affects Your Eligibility

You and your spouse enrollment in Healthfirst, as your QHP, at full cost during the months of January and February 2016 is cancelled.

You and your spouse's enrollment in Healthfirst, as your Essential Plan, begins as of January 1, 2016, provided the necessary premiums are remitted to Healthfirst as the insurance carrier.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be

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appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 21, 2015 eligibility determination notice is RESCINDED.

The December 22, 2015 notice of enrollment is RESCINDED.

The January 30, 2016 eligibility determination notice is MODIFIED to state that both you and your spouse were eligible to enroll in the Essential Plan as of January 1, 2016.

The January 30, 2016 notice of enrollment is MODIFIED to state that you and your spouse were enrolled in Healthfirst as your Essential Plan, effective January 1, 2016. Such a backdating of coverage shall only be effective upon receipt of the necessary premiums due to Healthfirst as the insurance carrier.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

You and your spouse enrollment in Healthfirst, as your QHP, at full cost during the months of January and February 2016 is cancelled.

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You and your spouse's enrollment in Healthfirst, as your Essential Plan, begins as of January 1, 2016, provided the necessary premiums are remitted to Healthfirst as the insurance carrier.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

